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Attorneys for American Family Mutual Insurance

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

In re:

CAROLINE UMANA,

Debtor.

**MEMORANDUM IN SUPPORT OF
AMERICAN FAMILY MUTUAL
INSURANCE'S MOTION TO REOPEN
DEBTOR CAROLINE UMANA'S
CHAPTER 7 BANKRUPTCY CASE**

Bankruptcy No. 12-24931

Honorable William T. Thurman

American Family Mutual Insurance, by and through counsel, respectfully submits this Memorandum in Support of its Motion to Reopen Carolina Umana's Bankruptcy Case in order to file an adversary proceeding requesting declaratory judgment.

"A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or *for other cause*." 11 U.S.C. § 350(b) (emphasis added). The Bankruptcy Court has discretion to reopen a closed case or proceeding when the moving party

demonstrates cause to reopen the matter. *Flores v. United States Trustee (In re Flores)*, 2001 Bankr. LEXIS 521, citing *Batstone v. Emmerling (In re Emmerling)*, 223 B.R. 860, 864 (2d Cir. BAP 1997).

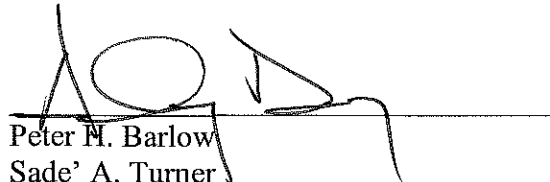
A case may be reopened on motion of the debtor or other party in interest pursuant to §350(b) of the Code. In a chapter 7, 12, or 13 case a trustee shall not be appointed by the United States trustee unless the court determines that a trustee is necessary to protect the interests of creditors and the debtor or to insure efficient administration of the case.

Fed. R. Bank. P. § 5010.

The Court should grant American Family Mutual Insurance's motion because it is appropriate to reopen Caroline Umana's Bankruptcy Case when Ms. Umana failed to disclose her pending claim against American Family Mutual Insurance in her Bankruptcy pleadings and schedules before she was awarded a discharge. Attached as Exhibit A is American Family Mutual Insurance's Complaint for the adversary proceeding requesting the Bankruptcy Court to declare that Ms. Umana is judicially estopped and no longer has standing to pursue her claim against American Family Mutual Insurance.

DATED this 31st day of January, 2013.

STRONG & HANNI



Peter H. Barlow

Sade' A. Turner

Andrew D. Day

Attorneys for Respondent American Family Mutual Insurance

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2013, a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF AMERICAN FAMILY MUTUAL INSURANCE'S MOTION TO REOPEN DEBTOR CAROLINE UMANA'S CHAPTER 7 BANKRUPTCY CASE** was served by the method indicated below to the following:

Taylor North
Siegfried & Jensen
5664 South Green St.
Murray, Utah 84123

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
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United States Bankruptcy Court
Frank E. Moss, United States Courthouse
350 South Main Street, #301
Salt Lake City, Utah 84101